

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-03-2432.M4**

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 04/27/01.
- b. The request was received on 03/20/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Medical Dispute Resolution
 - b. HCFAs-1500
 - c. TWCC 62 forms/Medical Audit
 - d. Medical documentation
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to the Request for Dispute Resolution
 - b. Medical Audit
 - c. Carrier Reimbursement Methodology Data
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/26/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 07/01/02. The response from the insurance carrier was received in the Division on 07/11/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 08/30/01
 "The procedure of intradiscal electrothermal annuloplasty (IDET) is a technically demanding procedure that required additional training, even beyond the scope of residency. This procedure is performed in an attempt to avert the need for lumbar fusion surgery.... The fee that this office charges is based on the vast expertise and knowledge

base of the practicing physician, the medical complications and the large liability risk associated with this procedure....The amount charged for this procedure we believe to be fair and reasonable.”

2. Respondent: Letter dated 07/10/02

“...The requestor gives no credible or evidentiary reason whatever for expecting an egregious payment of \$14,291.00 for a thirty minute procedure only marginally more difficult than an epidural steroid injection.... (Carrier) has explained in detail several times to the requestor its method for deriving its payment....This method is consistent with the statutory requirements of the Labor Code for fair and reasonable payments in the absence of a MAR.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 04/27/01.
2. The carrier denied the billed charges by denial codes, “M – THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011 (B)”.
3. Per the provider’s TWCC-60, the amount billed was \$20,000.00; the amount paid was \$759.00; the amount in dispute is \$14,291.00.
4. The Medical Audit dated 07/20/01 states, “The fair and reasonable reimbursement for IDET is based on the relative value units for 62292 since this describes similar work, knowledge, skill, risk to the patient and risk to the physician. The conversion factor of the 4/1/96 surgery section is \$101.16. The RVU for 62292 is 5. The product of the conversion factor and [sic] RVU is \$506.00. Also, reimbursed the second level at the multiple procedure rule \$253.00. No additional reimbursement is recommended.
5. The following table identifies the disputed services and Medical Review Division's rationale:

| DOS | CPT or Revenue CODE | BILLED | PAID | EOB Denial Code(s) | MAR\$ | REFERENCE | RATIONALE: |
|---------------|---------------------|----------------------------|----------------------|--------------------|-------|---|---|
| 04/27/01 | 22899 22899-59 | \$10,000.00 \$10,000.00 | \$506.00 \$253.00 | M | DOP | Rule 133.307 (g) (3) D); 133.304 (i); MFG <u>TWCC and the Importance of Proper Coding;</u> CPT descriptor | The provider failed to meet the criteria of 133.307 which states, “if the dispute involves health care for which the commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1 of this title...” The provider used modifier “-59” which is not an approved TWCC modifier. The carrier met the criteria of 133.304 (i) by submitting a methodology of fair and reasonable reimbursement. No additional reimbursement is recommended. |
| Totals | | \$20,000.00 | \$759.00 | | | | The Requestor is not entitled to reimbursement. |

MDR: M4-02-3206-01

The above Findings and Decision are hereby issued this 31st day of January 2003.

Donna M. Myers
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm